

THE GEI

MGP Reporter

US EPA RECORDS CENTER REGION 5



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Natural Resource Damages Mount

Assessing the Latest Assessments (in the \$Millions)

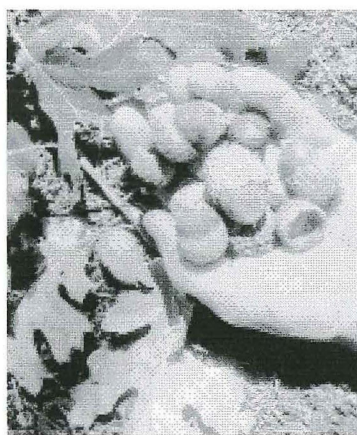
by Sharon Owen

The remediation of waste sites typically focuses on meeting the conditions of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the Clean Water Act (CWA), or state-mandated programs. CERCLA and the CWA also give natural resource trustees the option to assess and try to recover damages to natural resources resulting from a discharge of oil or a release of a hazardous substance.

Additional Cost

These Natural Resource Damages (NRDs) are assessed separate from and in addition to costs associated with the cleanup of a site. According to CERCLA, sums recovered for NRDs must be used only to restore, replace, or acquire the equivalent natural resources. Furthermore, Section 104 of CERCLA requires prompt notification of natural resource trustees regarding potential damages resulting from releases.

Natural resources are defined as land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, or otherwise controlled by the United States, any state or local government, any foreign government, or any Native American tribe. Federal, state,



Natural resource damages can be assessed under CERCLA and CWA.

and tribal NRD trustees are tasked with addressing injuries to natural resources, restoring injured resources to baseline conditions, and compensating for interim loss of the resources pending restoration. The trustees undertake a four-step process to determine the amount of the claim and whether or not an assessment of damages is warranted. Federal trustees include the Department of the Interior, the Department

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GE, Being Sued by EPA, Sues Berkshire Gas

GE, under pressure to clean up contamination in the Housatonic River in Pittsfield, MA, filed a \$4-million lawsuit against Berkshire Gas Company over the cleanup of a former MGP site in Pittsfield, according to the Associated Press.

GE says it discovered the site when it hit liquid coal tar while cleaning up the river and that

it spent \$2 million to remove it. The company says it spent an additional \$4.6 million on water treatment and other response actions related to the MGP plants, although some of these expenditures date back to the early 1990s.

GE alleges that Berkshire Gas operated an MGP plant from 1853 until 1905 at one site and another from 1902 until 1973 at a second site.





Chairman's Column

Gas Association's MGP Sounds a Few Positive Notes

The American Gas Association's November Manufactured Gas Plant Workshop showed that progress in site management has been made over the last decade. In fact, the 80 or so utility participants who attended the two-day workshop, which covered regulations, financial concerns, and case studies, heard about more than a few positive trends. First, there has been progress in limiting uncertainty. On the regulatory front, at least from the federal perspective, there appears to be a willingness to allow management of wastes as nonhazardous. This is not a carte blanche to mismanage remediation wastes, but it is a recognition that the public interest is best served by encouraging remediation and not putting up unreasonable hurdles to safe disposal. From the financial end, there was a discussion of brownfields economics and new insurance products to manage risk. While the latter may not seem comforting to a company in the throes of litigation with its former sources, it does show that the tools available to the site manager are growing and evolving. One cautionary note concerned the Environmental Protection Agency's plans to develop regulations regarding air emissions from remediation sites. We can only hope that the EPA will continue to recognize the unique nature of each site and allow for methods of measurement and control that are both reasonable and protective of public health. The experience with remediation waste management was not an easy process, but it does show what can be achieved.

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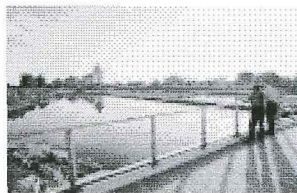
The *GEI MGP Reporter* is a quarterly newsletter covering selected environmental issues in the electric and gas industry. The newsletter staff welcomes articles and comments from members of the industry.

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Newsbriefs



No Tar on These Olympics

Cleanup and revitalization of Toronto's waterfront, contaminated by tar and other coal by-products, got a major boost in October with a \$1.5 billion cash infusion from municipal, provincial, and federal sources.

The *Toronto Star* reports that the money will fund the formation of a development corporation to oversee the project, soil cleanup, and creation of park land. The price tag for the project is \$12 billion.

The City of Toronto hopes the site will be home to the 2008 Olympic Games, which it

would like to host. Cost of the cleanup, however, could reach \$1 billion.

For more information, see the *Toronto Star* online page at www.thestar.com or the *Toronto* home page at www.city.toronto.on.ca/waterfront.

Cleanup Begins in Belleville

The City of Belleville, Ontario, and the Canadian government have begun an estimated \$40-million cleanup of manufactured-gas-plant and other industrial wastes on a stretch of land along Lake Ontario.

The city, located east of Toronto, has received funding from the Canadian government for a testing program. Preliminary tests revealed both soil and groundwater contamination by coal tar, iron, manganese, 1,4-dichlorobenzene, TPH, and PAHs, with trace amounts of benzene and chlorobenzene. There are 60,000

tons of contaminated soil.

The City is monitoring any seepage of contaminants into the lake and will erect sheet barriers to stop the flow of leachate.

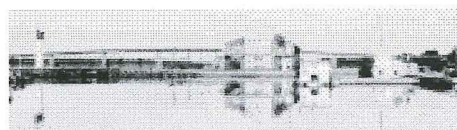
For more information, see the *Belleville Intelligencer* at www.canada.com/ontario/belleville.

Power Plant Demolition Prompts EPA Response

The Environmental Protection Agency in October announced its intention to help the City of Warren, OH, with the cleanup of the site occupied by its Mahoningside Power Plant. According to the agency, the site, formerly known as the Warren Water and Light Company, has PCB

and mercury contamination, discovered this spring when the City demolished the closed power plant. City officials asked the EPA for help, and by summer the agency's Superfund Emergency Response Team took over management of the water treatment system. The EPA is removing debris from the power plant's basement and trying to determine whether contamination has spread beyond the site and found its way into sediments of the Mahoning River. The City hopes to redevelop the land.

For more information, contact Mark Durno (330) 373-6723 or Mick Hans (312) 353-5050 at the EPA or visit www.epa.gov/region5/news00.



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Resource Damages ... from page 1

of Commerce, the Department of Defense, and the Department of Energy. State and tribal trustees vary by state and tribe. Not all states have established NRD programs. Where they exist, however, NRD claims can be assessed to sites under state programs and may not be limited to National Priorities List sites or sites with high visibility.

Recent Claims

Massachusetts recently has established an NRD program that is actively pursuing claims throughout the state. Sediments have been of specific interest, and claims have ranged from \$3.3 to \$25 million. To date, two sediment injury cases have been settled: the New Bedford Harbor NPL site, at which releases of polychlorinated biphenyls (PCBs) injured the Acushnet River estuary, river, and harbor; and the Nyanza Waste Dump NPL site, at which mercury releases injured the Sudbury River. Another sediment injury case, GE's releases of PCBs to the Housatonic River, is pending settlement. Two other cases are presently undergoing NRD negotiations: the Holyoke former manufactured-gas-plant Massachusetts 21E site on the Connecticut River and the Army Materials Technology Laboratory National Priorities List site on the Charles River.

The scope of injuries at the New Bedford Harbor site included 200,000 parts per million (ppm) PCBs in sediment, 18,000 acres of impacted marine habitat, fishing closures, species death and reproductive impairment, and lost use of natural resources. The NRD settlement for this site, \$20.2 million, is being used for salt-marsh, eelgrass-habitat, species, and shellfishery restoration projects, land acquisition for priority habitat, wetlands inventory, and creation of recreational parks.

At the GE site, PCBs released to the sediment resulted in diminishment of ecological services. The compensation for this loss included the creation of 12,000 acres of comparable habitat in addition to the site cleanup. The NRD claim for the GE site is \$25.5 million.

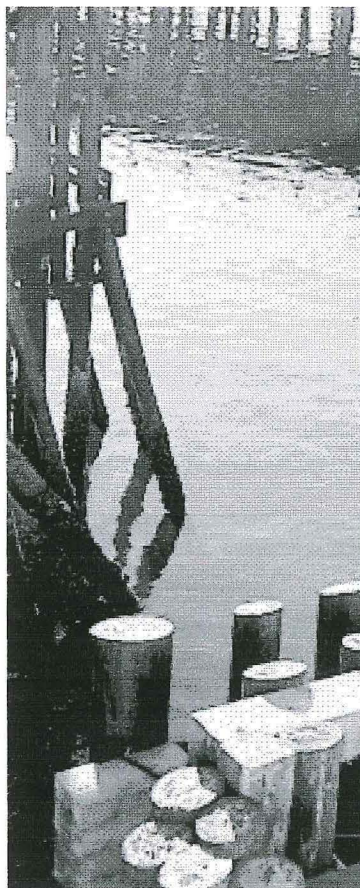
Like most other MGP sites, the Holyoke site is on a river. Historic operations resulted in discharges to the Connecticut River and subsequent impacts to the sediment. The Holyoke site NRD claim is still in negotiations, but coal

tar deposits in the river have potentially damaged the habitat of an endangered species. The magnitude of the claim was unknown at the time of this writing.

Focus on Sediments

Sediments have recently been receiving attention not only in the cleanup arena, but also as a natural resource worthy of protection. The potential impact of the NRD program is far-reaching, and the resultant claims can amount to a significant portion of a responsible party's environmental liability. Other MGP sites where sediments have been impacted may be the targets of NRD, especially where there have been endangered species' injuries or lost use of natural resources.

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Calendar

February 25-March 2, 2001

Executive Public Policy Institute sponsored by the Edison Electric Institute in Washington, DC. "Environmental Regulation: What Lies Ahead," is one of several topics. For more information, contact Shirley King at (202) 508-5159 or register online at www.washcampus.edu/eeiform.html.

June 10-13, 2001

2001 International Containment & Remediation Technology Conference & Exhibition in Orlando, FL. A follow-on to the 1997 conference of the same name. For more information, visit www.containment.fsu.edu.

Early 2001

GEI will host a multipart Web teleconference on the technology of manufacturing gas. If you would like to join us for this look into the technology of the past using the technology of today, e-mail dunites@geiconsultants.com.

Follow-up: EPA to Revise Mercury Standards, Industry Cooperates

Mercury continues to be the focus of both industry and regulators, following the summer release of the National Academy of Sciences Report calling for strict exposure standards. It is present in coal ash and was used in some utility operations.

The Environmental Protection Agency in November announced its intention to revise regulatory standards for mercury levels in water. The agency is proposing the same reference dose, 0.1 micrograms per kilogram of body weight per day, that the academy report called "justifiable based on the latest scientific evidence." Congress two years ago barred the agency from regulating mercury until completion of the academy's study. Submissions of scientific information were due on December 14. The draft document is posted at www.epa.gov/nceawww1/methmerc.htm.

Quin Shea, senior director of environmental activities at the Edison Electric Institute,

discusses the industry's cooperative response to the impending regulations in the September/October issue of *Electrical Perspectives*. Citing the National Academy's contention that mercury exposure could be particularly harmful to children, Shea says: "Our message to the public and to EPA is that we intend to be a player at the table -- not just a critic in the gallery. We intend to work constructively with the agency as it determines

whether -- and, if so, how -- industry ultimately reduces mercury emissions." The article is available at www.eei.org/ep/editorial/sept_00/index.htm.

Meanwhile, in Port Huron, MI, SEMCO ENERGY GAS COMPANY conducted a voluntary revision of its operations following reports of improper removal of older natural gas pressure regulators containing mercury. The utility in October

announced that its records "do not contain a single occasion of the improper removal of a mercury-loaded regulator" and that it will confirm that all regulators in use are mercury free. Mercury was a common substance in regulators from the 1930s through the 1950s.

Full text of the company's statement is published at www.semcoenergy.com.

Reading List

Environmental Reg UPDATE is a new newsletter introduced by the Gas Technology Institute (GTI) in August to cover regulatory developments, court decisions, and legislative trends that affect the natural gas industry. GTI says that the newsletter is available for free at www.gastechnology.org/pub/news/envregupdate, but there will be a subscription fee in the future.

Presentations/Papers from the Electric Power Research Institute Mercury from Air Quality Conference (September 2000) provide updates on EPRI research. They are available for download at www.epri.com/programHigh.asp?program=207807&objid=244182.

"Risk-based Groundwater Cleanup Levels," by GEI Senior Risk Assessor Karen Reece, looks at a trend toward less stringent cleanups both in the United States and abroad. The article appears in the autumn 2000 issue of *Due Diligence & Risk Management*.

Cleanup Approved

The Environmental Protection Agency in October approved Niagara Mohawk's \$15-million cleanup plan for a 7-acre former MGP site in Saratoga Springs, NY.

The plan calls for excavation and treatment of 44,000 tons of coal tar and contaminated soil.

The Associated Press reports that Saratoga Gas Light Company, a predecessor of Niagara Mohawk, operated the plant, and Niagara Mohawk inherited the property in 1950. The site is on EPA's Superfund list.



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